

**KENTUCKY SHERIFF'S ASSOCIATION  
08/17/09  
LOUISVILLE, KENTUCKY**

Meeting called to order at 10:00 AM Eastern Standard Time.

Sheriff Korzenborn called role. Sheriff's absent: Sheriff Eaton, Coffey, Hammond, and Sheriff Williams. Sheriff Korzenborn certified a quorum.

**Motion was made by Sheriff Aubrey and seconded by Sheriff Sparrow to excuse the absent board members. Motion was approved unanimously.**

**MINUTES OF PRIOR MEETING**

**Motion was made to approve the July 13, 2009 minutes made by Sheriff Cain and seconded by Sheriff Hampton to approve the minutes of the prior meeting as written. Motion was approved unanimously.**

**SECRETARY/TREASURER'S REPORT**

Sheriff Korzenborn distributed and went over the treasurer's report as of August 14, 2009.

## **KENTUCKY SHERIFF'S ASSOCIATION SECTERARY/TREASURER REPORT**

**July 13, 2009 through August 14, 2009**

**Paid bills per President Matthews or Board Approval at KSA Meeting**

KSA Operating Account Balance as of 08/14/09	\$	47,724.84
KSA Mutual Funds	\$	43,169.61
KSA Mutual Funds	\$	42,004.02
KSA Mutual Fund	\$	50,094.50
KSA Scholarship Account as of 08/14/09	\$	5,565.48

### **Dues Collected for the Year of 2009**

**A total of \$ 107,976.00 of \$ 112,324.00 (96.13 %) of the 2009 dues has been collected.  
That leaves an outstanding balance of \$ 4,348.00.**

**Motion to Accept Sheriff      Gaines  
2<sup>nd</sup> Sheriff                      Roberts**

### **UNPAID BILLS FOR BOARD APPROVAL**

Zebra Graphics for \$286.00 for 2009 KSA Conference signs

**Motion to Accept Sheriff      Hammons  
2<sup>nd</sup> Sheriff                      Young**

**Motion was approved unanimously.**

Register: KSA - Operating Account

From 07/13/2009 through 08/14/2009

Sorted by: Date, Type, Number/Ref

Date	Number	Payee	Account	Memo	Payment	C	Deposit	Balance
07/13/2009		Deposit	-split-	Deposit		X	3,875.00	33,297.81
07/13/2009	4318	KACCO	Vehicles	July 09	600.00	X		32,697.81
07/13/2009	4319	KSA Boys & Girls R...	Grant & contract expen...	July 09	3,417.80	X		29,280.01
07/17/2009		Deposit	-split-	Deposit		X	3,425.41	31,405.42
07/17/2009	4320	Sheriff Mark Matthews	Travel & meetings exp...	2009 NSA Con...	1,737.70	X		29,667.72
07/17/2009	4321	McCraiken Co Sheri...	2009 KSA Conference ...	Registration O...	350.00	X		29,317.72
07/20/2009		Deposit	-split-	Deposit		X	2,400.00	31,717.72
07/23/2009		Deposit	-split-	Deposit		X	1,975.00	33,692.72
07/28/2009		Deposit	-split-	Deposit		X	4,068.00	37,760.72
07/30/2009		Deposit	2009 KSA Conference ...	Linton, Woodl...		X	725.00	38,485.72
08/01/2009		Deposit	-split-	Deposit		X	1,475.00	39,960.72
08/03/2009		Deposit	2009 KSA Vendor Reg...	Ky Homelmd ...			1,075.00	41,035.72
08/04/2009		Deposit	-split-	Deposit			1,602.00	42,637.72
08/07/2009		Deposit	2009 KSA Conference ...	Anderson, Chas...			4,705.00	47,342.72
08/07/2009	4322	Jerry Wagner	Travel & meetings exp...	NSA Conferenc...	5,050.08			42,292.64
08/10/2009		Deposit	-split-	Deposit			500.00	42,792.64
08/10/2009	4323	Intelligence	2009 KSA Vendor Ref...	Unable to Attend	575.00			42,217.64
08/10/2009	4324	KACCO	Vehicles	August 09	600.00			41,617.64
08/10/2009	4325	KSA Boys & Girls R...	Grant & contract expen...	August 09	3,417.80			38,199.84
08/13/2009		Deposit	-split-	Deposit			1,525.00	41,724.84

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06/14/09

**KSA**  
**Check Detail**  
July 13 through August 14, 2009

Type	Num	Date	Name	Item	Account	Paid Amount	Original Amount
Check	4318	7/13/2009	KACO		KSA- Operating A...		-800.00
					Vehicles	-600.00	600.00
TOTAL						-600.00	600.00
Check	4319	7/13/2009	KSA Boys & Girls...		KSA- Operating A...		-3,417.80
					Benefits paid to or ...	-3,417.80	3,417.80
TOTAL						-3,417.80	3,417.80
Check	4320	7/17/2009	Sheriff Mark Matt...		KSA- Operating A...		-1,737.70
					Travel & meetings ...	-1,737.70	1,737.70
TOTAL						-1,737.70	1,737.70
Check	4321	7/17/2009	McCracken Co Sh...		KSA- Operating A...		-350.00
					2009 KSA Confere...	-350.00	350.00
TOTAL						-350.00	350.00
Check	4322	8/7/2009	Jerry Wagner		KSA- Operating A...		-5,050.08
					Travel & meetings ...	-5,050.08	5,050.08
TOTAL						-5,050.08	5,050.08
Check	4323	8/10/2009	Intoximeter		KSA- Operating A...		-575.00
					2009 KSA Vendor ...	575.00	575.00
TOTAL						-575.00	575.00
Check	4324	8/10/2009	KACO		KSA- Operating A...		-800.00
					Vehicles	-600.00	600.00
TOTAL						-600.00	600.00
Check	4325	8/10/2009	KSA Boys & Girls...		KSA- Operating A...		-3,417.80
					Benefits paid to or ...	-3,417.80	3,417.80
TOTAL						-3,417.80	3,417.80

9:26 AM  
08/14/09

**KSA**  
**Deposit Detail**  
July 13 through August 14, 2009

Type	Num	Date	Name	Account	Amount
Deposit	7/13/2009	Deposit	KSA- Operating Ac...		1,875.00
			2009 KSA Conferen...		-725.00
			2009 KSA Vendor ...		-1,150.00
TOTAL					-1,875.00
Deposit	7/17/2009	Deposit	KSA- Operating Ac...		2,125.41
			2009 EZ Payment S...		-0.41
			2009 KSA Conferen...		-1,825.00
			2009 KSA Vendor ...		-900.00
TOTAL					-2,125.41
Deposit	7/20/2009	Deposit	KSA- Operating Ac...		2,400.00
			2009 KSA Conferen...		-1,250.00
			2009 KSA Vendor ...		-1,150.00
TOTAL					-2,400.00
Deposit	7/23/2009	Deposit	KSA- Operating Ac...		1,975.00
			2009 KSA Conferen...		-900.00
			2009 KSA Vendor ...		-1,075.00
TOTAL					-1,975.00
Deposit	7/28/2009	Deposit	KSA- Operating Ac...		4,068.00
			2009 KSA Dues		-810.00
			2009 KSA Conferen...		1,875.00
			2009 KSA Vendor ...		-1,575.00
TOTAL					-4,068.00
Deposit	7/30/2009	Deposit	KSA- Operating Ac...		725.00
			2009 KSA Conferen...		-725.00
TOTAL					-725.00
Deposit	8/1/2009	Deposit	KSA- Operating Ac...		1,475.00
			2009 KSA Conferen...		900.00
			2009 KSA Vendor ...		-575.00
TOTAL					-1,475.00
Deposit	8/3/2009	Deposit	KSA- Operating Ac...		1,975.00
			2009 KSA Vendor ...		-1,075.00
TOTAL					-1,975.00
Deposit	8/4/2009	Deposit	KSA- Operating Ac...		1,802.00
			2009 KSA Conferen...		-875.00
			2009 KSA Vendor ...		-575.00
			2009 KSA Dues		-352.00
TOTAL					-1,802.00

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**KSA**  
**Deposit Detail**  
**July 13 through August 14, 2009**

Type	Num	Date	Name	Account	Amount
Deposit		8/7/2009	Deposit	KSA- Operating Ac...	4,705.00
				2009 KSA Conferen...	-4,705.00
TOTAL					-4,705.00
Deposit		8/10/2009	Deposit	KSA- Operating Ac...	500.00
				2009 KSA Conferen...	-300.00
				2009 KSA Sponsor...	-200.00
TOTAL					-500.00
Deposit		8/13/2009	Deposit	KSA- Operating Ac...	3,525.00
				2009 KSA Conferen...	-2,950.00
				2009 KSA Vendor ...	-575.00
TOTAL					-3,525.00

**KSA EXECUTIVE DIRECTOR'S REPORT**  
**KSA BOYS/GIRLS RANCH REPORT**

The July ranch finance reports were distributed to the board for review.

**Motion was made by Sheriff Gaines and seconded by Sheriff Hampton to accept the Executive Director's report. Motion passed unanimously.**

KSA Director Wagner reported the camp season has been going very well, a few minor incidents have occurred, all incidents have been documented.

Sheriff Frank Latham has a coal mine company who is interested in coming and doing restoration work on the bunk house and kitchen.

The Western Kentucky Sheriffs are going to meet on August 26, 2009 at 10:00 a.m. at the ranch; all sheriffs are invited to attend.

Conference Rooms at the Holiday Inn in Bowling Green, Ky. have been booked for all board members for the upcoming conference. The KSA has met the contractual agreement for the number of room nights. Any Sheriff or deputy who needs a room please contact KSA Executive Director Wagner.

The banquet that is usually held on Friday evening will be held on Monday September 14, 2009 with a trip to the Corvette Museum, a cookout and a live band. Only registered conference attendees will be able to attend. Tickets will be made available to purchase at the conference.

**Motion made that registered attendees must have their ticket or conference ID to enter all events made by Sheriff Cain, seconded by Sheriff Hampton. Motion was approved unanimously.**

**KSA EXECUTIVE DIRECTOR'S REPORT**  
**KSA BOYS/GIRLS RANCH REPORT**

The Alabama Executive Director will be a guest at the conference.

Sheriff J.B. Smith will be the featured speaker at the Thursday night Banquet.

Spouses Brunch will be at 10:00 a.m. on Wednesday September 16, 2009.

Sheriff Cain suggested the KSA prints be brought to the conference and lower the price of the prints that are left over from last year conference.

Sheriff Cain has received 17 scholarship applicants as of the date of this meeting.

Scholarship recipients will be notified by letters that they have been awarded a scholarship and the check will be forwarded to the Sheriff of the County to be distributed at his or her sheriff's office.

All information should be referred to Ouida Anthony from the Warren County Sheriff's Office to be disseminated for discussion by the board.

**All Sheriff are requested to bring a door prize from their County to the Conference**

**Sheriff Aubrey requested that award nominations be sent in as soon as possible to his office. The forms are on the KSA web site.**

The agenda for the conference is listed below.



**80th ANNUAL CONFERENCE  
K.S.A.**

**Sunday, September 13, 2009**

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5 p.m. – 7 p.m.

5 p.m. – 11 p.m.

HOSPITALITY ROOM

**Monday, September 14, 2009**

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8 a.m. – 5 p.m.

7:00 a.m.- 8:00 a.m.

5 p.m. - 9 p.m. Conference Register Attendees  
must have tickets.

8 p.m. – 11 p.m.

DOCJT TRAINING-  
REGISTRATION 2<sup>nd</sup> FLOOR  
Corvette Museum Tour & Cook Out, Music,  
HOSPITALITY ROOM

**Tuesday, September 15, 2009**

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8 a.m. – 5 p.m.

5:00 p.m.- 5:30 p.m.

4:30 p.m.-6:30 p.m.

6:30 p.m. – 9:00 p.m.

5:30 p.m. – 11:00 p.m.

TRAINING-  
KSA BOARD MEETING  
VENDOR REGISTRATION  
Board of Directors Host Sheriff Gaines  
HOSPITALITY ROOM

**Wednesday, September 16, 2009**

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8 a.m. – 5 p.m.

10:00 a.m.

8 a.m. – 12:00 p.m.

8 a.m. – 2 p.m.

12:00 p.m.-12:15 p.m.

3 p.m. – 8 p.m.

TRAINING-  
LADIES BRUNCH  
VENDORS REGISTRATION  
EXHIBT SET UP  
NOMINATION of OFFICERS  
EXHIBIT HALL OPENS

5:00 p.m. –5:30 p.m.

5:30 p.m. – 7:30 p.m.

OPENING CEREMONIES  
PRESIDENT’S WELCOME RECEPTION  
(Dress – Casual)  
HOSPITALITY ROOM

8 p.m. – 11:00 p.m.

**Thursday, September 17, 2009**

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8 a.m. – 5 p.m.

9:00 a.m. 12:00 p.m.

11a.m. – 2 p.m.

12:00 p.m.-1:00 p.m.

1 p.m.

6 p.m.

7 p.m.

TRAINING-  
ELECTION OF OFFICERS  
EXHIBIT HALL OPEN  
VENDORS LUNCH  
ELECTION RESULTS POSTED  
SOCIAL HOUR  
Invocation, Dinner, Awards, Guest Speaker, Scholarship  
Presentation, Installation of 2009 Officers  
Remarks – Sheriff Mark Matthews 2009 KSA President  
Door Prizes – Sheriff Matthews  
HOSPITALITY ROOM

**Immediately after Banquet/Program**

**Friday, September 18, 2009**

8 a.m. – 5:00 p.m.

TRAINING

# SHERIFF'S CONFERENCE - 2008

Draft 7/13/08

	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY
8:00	Orientation (1.0) Rich Hanzes / Walt Tangel	Managing the Incident: A Leadership Guide for All Hazards Events (cont.) (4.0)	Risk Management (4.0)	Court Security Officer (2.0)  Jim Sanders	Legal - Administrative (2.0)  Jerry Ross
9:00	Pyramid of Success (3.0)			Concerns of Police Survivors (2.0)	Crisis Intervention Team (2.0)
10:00					
11:00	Ken Morris	John Butterworth / Steve Hodges	Jack Ryan	Jennifer Thecker	Dentse Spratt/ Jim Dailey
12:00	Lunch	Lunch	Lunch	Lunch	Lunch
1:00	Managing the Incident: A Leadership Guide for All Hazards Events (4.0)	Pursuit and Emergency Response (4.0)	Risk Management (cont.) (4.0)	Sheriff's Responsibilities (2.0)  Jerry Wagner	Cannabis Suppression (1.0)  Brent Roper
2:00				Legal - Update (2.0)	Crisis Leadership (2.0)
3:00					Brett Hightower
4:00					Critique / Test (1.0)
5:00	John Butterworth / Steve Hodges	Rob Miller	Jack Ryan	Jerry Ross	Walt Tangel / Jim Sanders

## **NEW BUSINESS**

David Gordon with the Ky. Department of Revenue addressed the board in reference to new forms for the waiver of penalties of taxes. (See forms listed below).

Mr. Gordon believes that the auditors would accept the waiver forms of penalties and has confirmed that they would do so with proper documentation from the Sheriff. The Department of Revenue is hoping the call volume would decrease the amount of calls about waivers with the new forms, but if a Sheriff has questions or there is a grey areas do not hesitate to call.

Wayne Gunnell Ky. Department of Revenue addressed the board about working with the local taxpayers is helpful to the sheriff and use the form on a case by case bases.

Sheriff Wayne Wright addressed the board about the agreement that they have in their county that the County Clerk, the County Attorney, and the Sheriff all sign off after the tax bills leave the sheriffs office on any waiver of penalties, fees or interest.

President Mark Matthews congratulated Sheriff Steve Sparrow and the Oldham County Sheriffs Office for becoming the 5<sup>th</sup> Sheriff's office in the Commonwealth to be accredited by the KACP.

Sheriff Cain updated the board on some items that the KLEC board is planning at addressing the physical agility standards do to the number of females who can not pass portion of the physical agility test.

Sheriff Cain has assigned Sheriff Sparrow as the chairman of the committee to review the POPS standards that have been in place for over ten years.

### **NEW BUSINESS**

Sheriff Cain received a letter from Sheriff Bill Witten expressing his interest in running for the position of 3<sup>rd</sup> Vice President of the KSA board.

Sheriff Troy Anderson has brought to the attention of the board that Mapother & Mapother law firm has started up a Fast Service process company to serve civil summons.

### **LEGISLATIVE AGENDA**

KSA Executive Director Wagner has met with the Governor in reference to Legislative issues. The plan is to meet with the President of the Senate and The Speaker of the House with the issues listed below.

189A.010- Amend to allow the cost of blood test to be assessed to defendant in the court cost fee to be reimbursed to the Sheriff's Office.

The CCSO court fees to be raised from \$8.00 an hour.

Address KRS 70.350 and 424.150 in reference to service of civil process by constables.

Transportation of Prisoners without funding.

Retirement Bill- the Sheriff's concerns about this bill.



# GUIDELINES FOR WAIVER OF PENALTY AND FEES



Office of Property Valuation  
Kentucky Department of Revenue  
July 2009

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**MEMORANDUM**

To: Kentucky Sheriffs  
Kentucky County Attorneys  
Kentucky County Clerks

From: David Gordon  
Executive Director, Office of Property Valuation

Date: \_\_\_\_\_ 2009

RE: Guidance for the Waiver of Penalties and Interest on Real and Personal Property

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The Kentucky Department of Revenue ("Department") has developed the following guidance to allow the county attorneys under contract with the Department, sheriffs, and county clerks, to provide for the waiver of penalties and, in one instance, interest at the local level as the agent for the Department. KRS 131.140(2) The county attorneys acting under contract with the Department, sheriffs, and county clerks are allowed to waive penalties and interest, when the waiver will facilitate the collection of the delinquent tax bill and further, to prevent any injustice to the taxpayer. In light of the fact that the local official will be more familiar with the taxpayer and his or her circumstance, each waiver of penalties and interest reviewed by the local official should be done on a case-by-case basis, with each taxpayer's circumstance being reviewed independently.

KRS 133.220 requires the county clerk to prepare for the use of the sheriff or collector a correct tax bill for each taxpayer in the county whose property has been assessed and whose valuation is included in the certification provided in KRS 133.180. Unfortunately, errors can occur on a tax bill, some of which are beyond the control of the taxpayer, which can result in the failure of the taxpayer not receiving a notice of tax due.

KRS 131.175 allows for the waiver of penalties when it is shown that the failure to pay is due to "reasonable cause". Though KRS 131.175 specifically does not allow for the waiver of interest, KRS 131.081(6) does allow for the waiver of interest when it is shown that the taxpayer has relied on written advice from the Department, which would include written advice from a local official.. Waiver of penalties and interest should only be granted as a matter of settlement and for the purpose of facilitating the collection of the tax, as allowed by KRS 131.030(3). Further, no authority is provided by the Kentucky General Assembly to reduce the amount of tax due, unless there is a clerical, mathematical or procedural error in an assessment or any duplication of an assessment and that error has been reviewed and approved by the Department. KRS 133.110.

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The sheriff may waive the penalties and interest that have been added when the tax bill is payable to the sheriff's office whenever reasonable cause has been demonstrated. If a waiver of a penalty and interest on a property tax bill is granted after the tax bill is transferred to the county clerks' office, each of the local officials affected by the waiver of the penalties and interest must sign the form.

The Department encourages the local officials to communicate and participate with each other in the decision to waive any penalty and interest related to this memorandum

**I. GUIDELINES FOR WAIVER OF PENALTY AND INTEREST**

KRS 131.175 allows for the waiver of penalties when there is shown "reasonable cause". KRS 131.010(9) defines reasonable cause as an event, happening, circumstance entirely beyond the knowledge or control of a taxpayer who has exercised due care and prudence in the filing of a return or report or the payment of monies due the Department pursuant to law or administrative regulation.

The waiver of interest can only occur when the taxpayer has shown that he or she has relied on erroneous written advice from the Department, which includes erroneous written advice from a local official. KRS 131.081(6)

A taxpayer's demonstration of reasonable cause relieves the taxpayer of paying a penalty and interest because payment would be unfair to the taxpayer in light of the circumstances surrounding the nonpayment of tax. A review by the local official of the circumstance provided by the taxpayer should be done on a case-by-case basis, with each taxpayer's circumstance being reviewed independently.

103 KAR 1:040 enumerate the circumstances constituting reasonable cause, which are as follows:

1. The taxpayer has relied on erroneous written advice from the Department, which would include erroneous written advice from a local official;
2. Death or serious illness of a taxpayer or his or her immediate family at the time the tax bills were mailed or due;
3. Death or serious illness of the taxpayer's tax return preparer at the time the tax bills were mailed or due;
4. Unavoidable absence of the taxpayer when the tax bills were mailed or due;
5. Destruction or unavailability of taxpayer records due to a catastrophic event at the time the tax bills were mailed or due;



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6. Inability to obtain records in custody of a third party. For example, taxpayer divorced and the tax bill was mailed to the person other than who received the property under the terms of the divorce decree;
7. Employee theft or defalcation of taxpayer's financial records;
8. Undue hardship which can include the loss of a job or an unexpected emergency at the time the tax bills were mailed or due;
9. Human error. For example, the taxpayer's name or address may be misspelled and the taxpayer does not receive the bill;
10. Erroneous written advice by tax advisor on which it was reasonable for the taxpayer to rely;
11. Reliance on substantial legal authority;
12. Ignorance of reporting requirements due to the lack of previous tax and penalty experience. For example, the taxpayer moved in our out of state but failed to update the address with the property valuation administrator's office. Another example is when a taxpayer purchases property after January 1 and the tax bill is sent to the January 1 owner. The new owner is unaware of the delinquency the sheriff sends a second notice or the county attorney contacts the taxpayer about the delinquent tax bill;
13. Miscellaneous. The taxpayer has submitted a written waiver of penalties and fees and it is decided that the statements of the taxpayer establishes reasonable cause for delay in filing of a return or paying a tax which clearly negates negligence on the part of the taxpayer.

II. DOCUMENTATION

The Department has developed a form for use by the local official which documents why a taxpayer should be granted a waiver of a penalty and interest. The circumstance for waiver of penalties or interest correspond with the ones listed in 103 KAR 1:040. The local official should simply check the box that applies and sign the form. If a waiver is granted for a miscellaneous reason, then please provide details in the section marked "other".

If a penalty and interest on a property tax bill is waived while the sheriff is the local official responsible for its collection, only the sheriff or an authorized deputy is required to sign the form. A copy of the signed form may be provided to the taxpayer if a copy is requested. The original, signed copy should remain on file with the sheriff's office. The Department will

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review these forms as part of the settlement process to complete a collection cycle. These forms are also subject to inspection by the Auditor of Public Accounts.

If a waiver of a penalty and interest on a property tax bill is granted after the tax bill is transferred to the county clerks' office, each of the local officials affected by the waiver of the penalties and interest must sign the form. Again, a copy of the signed form may be provided to the taxpayer upon request. The original signed copy should remain on file in the County Clerk's office for review by the Department and the Auditor of Public Accounts.

III. CONCLUSION

The situations detailed in this memorandum describe the most common occurrences encountered. The local official should not hesitate to contact the Department for further consideration of any situation, listed or unlisted, in this memorandum. Please contact the Office of Property Valuation at (502) 564-8338 for further discussion.

12. Age and health of the taxpayer.
- (b) The following factors shall be considered in determining if waiver of a fee or penalty facilitates collection of the tax liability:
1. Dischargeability of tax liability in bankruptcy;
  2. Collectability of the tax, penalty, and interest directly from the taxpayer, as determined from the taxpayer's financial statements;
  3. Availability of sources of funds for payment not under the control of the taxpayer; and
  4. Past and current compliance with Department of Revenue filing and payment requirements.
- (9) Human error. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by human error and the delay or failure is the first occurrence over the last twelve (12) calendar months if the taxpayer is a monthly or quarterly filer, or twenty-four (24) months if the taxpayer is an annual filer, and Department of Revenue records show that the taxpayer took appropriate steps to eliminate the delinquency in a timely manner.
- (10) Erroneous advice by tax advisor. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by the receipt of erroneous advice from a tax advisor or other professional on whom a taxpayer had a reasonable right to rely. The taxpayer shall establish the presence of the following three (3) factors for the Department of Revenue to consider the applicability of this subsection:
- (a) Unfamiliarity of the taxpayer with the tax laws, and actual reliance by the taxpayer on the advice of the tax advisor;
  - (b) Supporting documentation of full disclosure by the taxpayer of all relevant facts provided to the tax advisor or other professional retained and advice received, including:
    1. A copy of the advice requested;
    2. A copy of the advice provided; and
    3. A statement from the tax advisor explaining the circumstances; and
  - (c) Exercise of reasonable care and prudence by the taxpayer in determining whether to secure further advice.
- (11) Reliance on substantial legal authority. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by reliance on substantial legal authority for the particular tax treatment of an item of gross income, deduction, exemption, credit, or basis. The following factors shall be considered in a determination of the applicability of this subsection:
- (a) Actual reliance by the taxpayer at the time of failure to file the return or report or to pay the tax; and
  - (b) Conspicuous, full disclosure by the taxpayer in the return, if a return was filed, of the position that is contrary to the Department of Revenue's position, including all copies of or citation to the Internal Revenue Code, the Kentucky Revised Statutes, final and temporary regulations of the Internal Revenue Service and the Department of Revenue, Revenue Rulings, Revenue Procedures, and Private Letter Rulings of the Internal Revenue Service, case law interpreting the previous items, or any other relevant legal authority which provides that the tax treatment is more likely than not correct.
- (12) Ignorance of Reporting Requirements. Ordinary business care and prudence shall require that a taxpayer be aware of tax obligations. Penalties may be waived in isolated cases if a taxpayer is not aware of the reporting requirements. Ignorance of the law may be considered in conjunction with other facts and circumstances including limited education or the lack of previous tax and penalty experience.
- (13) Tax modernization. For taxable periods beginning after December 31, 2004 and before January 1, 2006, the penalty for any declaration underpayment, as provided in KRS 131.180 and 141.990(3) shall be waived if the declaration underpayment is directly related to the changes to the tax laws pursuant to 2005 Ky. Acts ch. 168, and the taxpayer made a good faith effort to comply with 2005 Ky. Acts ch. 168.
- (14) Miscellaneous. If the cause for penalty waiver submitted by the taxpayer does not fall within the other reasonable cause guidelines provided in this section, the Department of Revenue may decide that the written statements submitted by the taxpayer establish a reasonable cause for noncompliance with the applicable tax statute. A cause for noncompliance which appears to a person of ordinary prudence and intelligence as a reasonable cause for delay in filing a return or paying a tax and which clearly negates negligence, willful disregard of administrative regulations, or fraud may be accepted. The facts and circumstances of each case shall be considered.
- Section 2. Taxpayer's Support for Reasonable Cause. (1) Responsibility for request. The taxpayer shall:
- (a) Request reduction or waiver of any penalty, in writing; and
  - (b) Provide all supporting documentation necessary to substantiate reasonable cause.
- (2) Time of request. A taxpayer shall:
- (a) Attach a statement requesting waiver for reasonable cause to a return; or
  - (b) Request waiver after notice of assessment.
- (3) Request by representative of taxpayer. A request from a taxpayer's representative shall be considered a request by the taxpayer if the taxpayer has provided a properly signed power of attorney or the Department of Revenue is satisfied by any other written statement that the representative has been authorized to act for the taxpayer. (32 Ky.R. 1810; Am. 33 Ky.R. 376; eff. 9-1-2006.)

12. Age and health of the taxpayer.
- (b) The following factors shall be considered in determining if waiver of a fee or penalty facilitates collection of the tax liability:
1. Dischargeability of tax liability in bankruptcy;
  2. Collectability of the tax, penalty, and interest directly from the taxpayer, as determined from the taxpayer's financial statements;
  3. Availability of sources of funds for payment not under the control of the taxpayer; and
  4. Past and current compliance with Department of Revenue filing and payment requirements.
- (9) Human error. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by human error and the delay or failure is the first occurrence over the last twelve (12) calendar months if the taxpayer is a monthly or quarterly filer, or twenty-four (24) months if the taxpayer is an annual filer, and Department of Revenue records show that the taxpayer took appropriate steps to eliminate the delinquency in a timely manner.
- (10) Erroneous advice by tax advisor. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by the receipt of erroneous advice from a tax advisor or other professional on whom a taxpayer had a reasonable right to rely. The taxpayer shall establish the presence of the following three (3) factors for the Department of Revenue to consider the applicability of this subsection:
- (a) Unfamiliarity of the taxpayer with the tax laws, and actual reliance by the taxpayer on the advice of the tax advisor;
  - (b) Supporting documentation of full disclosure by the taxpayer of all relevant facts provided to the tax advisor or other professional retained and advice received, including:
    1. A copy of the advice requested;
    2. A copy of the advice provided; and
    3. A statement from the tax advisor explaining the circumstances; and
  - (c) Exercise of reasonable care and prudence by the taxpayer in determining whether to secure further advice.
- (11) Reliance on substantial legal authority. Penalties may be waived if the delay or failure to file a return or report or pay a tax was caused by reliance on substantial legal authority for the particular tax treatment of an item of gross income, deduction, exemption, credit, or basis. The following factors shall be considered in a determination of the applicability of this subsection:
- (a) Actual reliance by the taxpayer at the time of failure to file the return or report or to pay the tax; and
  - (b) Conspicuous, full disclosure by the taxpayer in the return, if a return was filed, of the position that is contrary to the Department of Revenue's position, including all copies of or citation to the Internal Revenue Code, the Kentucky Revised Statutes, final and temporary regulations of the Internal Revenue Service and the Department of Revenue, Revenue Rulings, Revenue Procedures, and Private Letter Rulings of the Internal Revenue Service, case law interpreting the previous items, or any other relevant legal authority which provides that the tax treatment is more likely than not correct.
- (12) Ignorance of Reporting Requirements. Ordinary business care and prudence shall require that a taxpayer be aware of tax obligations. Penalties may be waived in isolated cases if a taxpayer is not aware of the reporting requirements. Ignorance of the law may be considered in conjunction with other facts and circumstances including limited education or the lack of previous tax and penalty experience.
- (13) Tax modernization. For taxable periods beginning after December 31, 2004 and before January 1, 2006, the penalty for any declaration underpayment, as provided in KRS 131.180 and 141.990(3) shall be waived if the declaration underpayment is directly related to the changes to the tax laws pursuant to 2005 Ky. Acts ch. 168, and the taxpayer made a good faith effort to comply with 2005 Ky. Acts ch. 168.
- (14) Miscellaneous. If the cause for penalty waiver submitted by the taxpayer does not fall within the other reasonable cause guidelines provided in this section, the Department of Revenue may decide that the written statements submitted by the taxpayer establish a reasonable cause for noncompliance with the applicable tax statute. A cause for noncompliance which appears to a person of ordinary prudence and intelligence as a reasonable cause for delay in filing a return or paying a tax and which clearly negates negligence, willful disregard of administrative regulations, or fraud may be accepted. The facts and circumstances of each case shall be considered.
- Section 2. Taxpayer's Support for Reasonable Cause. (1) Responsibility for request. The taxpayer shall:
- (a) Request reduction or waiver of any penalty, in writing; and
  - (b) Provide all supporting documentation necessary to substantiate reasonable cause.
- (2) Time of request. A taxpayer shall:
- (a) Attach a statement requesting waiver for reasonable cause to a return; or
  - (b) Request waiver after notice of assessment.
- (3) Request by representative of taxpayer. A request from a taxpayer's representative shall be considered a request by the taxpayer if the taxpayer has provided a properly signed power of attorney or the Department of Revenue is satisfied by any other written statement that the representative has been authorized to act for the taxpayer. (32 Ky.R. 1810; Am. 33 Ky.R. 376; eff. 9-1-2006.)

Dear

Please include the following info. when sending a request for Penalty Waiver:

- Detailed written explanation as to why delinquent property taxes were not paid and include any undue hardships that may have hindered payment of these taxes.
- Need copy of delinquent tax bill year and bill number.
- Need a contact phone number and mailing address to send our reply letter.
- Note: Return all above requested information to me via E-mail or Fax.

My E-mail Address: [wayne.gunnell@ky.gov](mailto:wayne.gunnell@ky.gov) Fax. (502) 564-8368

If you have any other questions or need further assistance, please contact my office.

Thanks,

*Wayne Gunnell*

**Policy Advisor**  
**KY Department of Revenue**  
**501 High Street, Station #30**  
**Frankfort KY 40620**  
**502-564-7237**  
**[wayne.gunnell@ky.gov](mailto:wayne.gunnell@ky.gov)**

***As part of the Finance and Administration Cabinet the mission of the Kentucky Department of Revenue is to administer tax laws, collect revenue, and provide services in a fair, courteous, and efficient manner for the benefit of the Commonwealth and its citizens.***

*This message may contain sensitive or confidential information and is for the exclusive use of the intended recipient(s). If you are not the intended recipient, please note that any form of distribution, copying, forwarding or use of this communication or the information therein is strictly prohibited and may be unlawful. If you have received this communication in error, please return it to the sender and send a copy or notify: [SecurityNotice@ky.gov](mailto:SecurityNotice@ky.gov) and then delete the communication and destroy any copies. It should be expressly understood that the Finance and Administration Cabinet cannot guarantee the security of the transmission and assumes no responsibility for intentional or accidental receipt by a third party.*

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Commonwealth of Kentucky  
**Department of Revenue**  
Finance and Administration Cabinet  
Office of Property Valuation  
PO Box 1202  
Frankfort, Kentucky 40602-1202

July 22, 2009

*Sample  
Penalty Waiver  
Denial Letter*

John Doe Jr.  
000 Coal Mine Dr.  
Pikeville, Ky. 41501

RE: Pike Co. 2008 Property Tax Bill # 0000

Dear Mr. Doe,

We have received your written request for a waiver of penalties applied to the County property tax bill shown above. Based upon the circumstances described, it is the Department of Revenue's position that a penalty waiver is not justified under 103 Kentucky Administrative Regulation 1:040 and the waiver is hereby denied under Kentucky Revised Statute 131.175. Please contact the Pike County Clerk's Office for the delinquent amount due. This tax bill could be subject to more fees if not paid immediately.

Property bills are an annual obligation of the January 1<sup>st</sup> owner. Every effort should be made by the property owner to provide for timely payment of the property taxes. No future request for waiver of the penalty will be granted without extraordinary circumstances.

If there is a problem with the correct billing address, you should immediately contact the local Property Valuation Administrator's Office to correct the problem.

Should there be any questions, please contact the Office of Property Valuation at (502)-7237.

Sincerely,

Cc. Pike Co. Clerk  
Pike Co. Attorney

Wayne Gunnell  
Policy Advisor  
Office of Property Valuation

Commonwealth of Kentucky  
Finance and Administration Cabinet  
Department of Revenue  
**Office of Property Valuation**  
501 High Street Post Office Box 1202  
Frankfort KY 40602-1202

July 9, 2009

John and Mary Doe  
123 Main Street  
Anytown KY 42310

Re: 2008 \_\_\_\_\_ County Property Tax Bill Number \_\_\_\_\_

Dear Mr. and Mrs. Doe,

We have received your written request for a waiver of penalties applied to the bill shown above. Based upon the circumstances described, it is the Department of Revenue's position that a penalty waiver is justified under 103 Kentucky Administrative Regulation 1:040 and the waiver is hereby approved under Kentucky Revised Statute 131.175.

This letter will authorize the \_\_\_\_\_ County Clerk's Office to recalculate the total due without the 10% penalty.

Please contact the county clerk's office for the adjusted amount due. This tax bill must be paid by \_\_\_\_\_ 2009 in order to receive the penalty waiver.

Any delinquent tax bill purchased by a third-party, before payment of the bill by you, will nullify and void the penalty waiver.

This penalty waiver applies only to the year stated in this letter. Property tax bills are an annual obligation of the January 1 owner. Every effort should be made by the property owner to provide for timely payment of the property taxes. No future request for waiver of the penalty will be granted without extraordinary circumstances.

If there is a problem with the correct billing address, you should immediately contact the local Property Valuation Administrator's office to correct the problem.

Should there be any questions, please contact the Office of Property Valuation at (502) 564-7237.

Sincerely,

Your Name Here  
Office of Property Valuation

Cc: \_\_\_\_\_ County Clerk

### **NEXT MEETING**

The next **KSA Board Meeting** will be during the KSA Conference in Bowling Green, Ky. September 15, 2009 at 4:30 p.m...

**Motion to adjourn was made by Sheriff Wright and seconded by Sheriff Sparrow. Motion was passed unanimously.**